

## REMARKS/ARGUMENTS

Applicant affirms the election of Group I, claims 1-15, 21, 22 and 24-27. Claims 16-20 and 23 are withdrawn and are hereby canceled by this amendment.

Regarding the Section 112 rejection that “the specification fails to disclose a network planning tool for defining a recommended change in use of the resource as claimed.” Office Action at page 4, last two lines. The claims have been amended to recite “using a network planning tool . . . to define a recommended route”.

This limitation is supported in the originally-filed specification at, for example, paragraph [16] which reads as follows:

“[16] In Fig. 2, planning stage 100 includes using software planning tools to design a base system that provides targeted performance requested by a customer, such as a serviced provider. For example, one type of planning tool is MetroPlanner™ by Cisco Systems, Inc. It should be apparent that any suitable types of planning tools can be used. One typical function of a planning tool is to accept a definition of a network’s design requirements and to select network equipment and equipment configurations to achieve the requirements.”

Further supporting text is found in Applicant’s specification starting with the last sentence of paragraph [2]: “A planning tool can help the network designers predict how a network will operate and can allow the designers to define preferred ways of handling future needs. For example, types of future needs include changing traffic requirements or new bandwidth provisioning. A network designer can predefine or allocate recommended routes for future traffic based on network topology and hardware compatibilities and performance.”

Regarding the Section 112 objections to claims 21 and 22, the use of “one or more” is very common in claim drafting and such use is not vague or indefinite. A search at [www.uspto.gov](http://www.uspto.gov) on February 3, 2008, revealed that there are 262,839 issued patents with the phrase “one or more” in the claims and 1277 issued patents with the phrase “one or more instructions” in the claims.

Each of the pending claims includes a limitation neither disclosed by nor made obvious in view of the prior art. For example, each claim is directed to “allocating a resource in a digital network”. Each claim includes a limitation of “using a network planning tool prior to a time of operation of the digital network to define a recommended route.”

Sikora does not disclose allocation of a resource in a digital network. Sikora only describes “routing a transaction message within a communications system”. Sikora at Col. 1, lines 39-41. Sikora’s routing and queuing is at the application level between processes executing within a computer system and does not involve a digital network. Sikora discusses all routing, transaction and queue processing with respect to modules such as workflow application 42, queue engine 44 and resources 14 (human or automated agents). These modules are all separate from and unrelated to the digital network of Internet 28. See for example Sikora’s Figure 1 and discussion at col. 3, line 36 et al. Thus, Sikora does not disclose any features relevant to “allocating a resource in a digital network”. Nor does Sikora teach or suggest “using a network planning tool” to perform any function. One can not imagine how a network planning tool could be used to assist in resource allocation for inter-application communications since by definition a network planning tool relates to network resources such as would be present in, for example, Internet 28 of Sikora’s Figure 1.

Mouri presents a route search method that operates in a network at a time of operation of the network. However, Mouri’s approach is similar to the prior art methods that the present invention seeks to overcome in that Mouri makes no use of planning tool information to determine the route to select at a time of operation of the network. Rather, Mouri provides “a route search method which raises the possibility of searching the plurality of routes as optimal as possible so as not to pass the same node”. Mouri’s approach is a formula applied to select one route from a plurality of possible routes and does not utilize information available at a planning stage via a planning tool to “defined a recommended route.”

Significantly, both Mouri and Sikora do not even mention or allude to a “planning tool” and, as correctly noted in the Office Action, “The planning tool is essential to practice the claimed invention”. Office Action at page 4, last line.

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Applicant respectfully submits that the present claims are in condition for allowance and an early Notice of Allowance is earnestly sought. The undersigned may be contacted at the telephone number below at the Examiner's convenience if it would help in the prosecution of this matter.

Respectfully submitted,

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